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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,284	02/20/2004	Carsten Schwesig	450103-04750.1	7616
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FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER CHEN, CHONGSHAN	
			ART UNIT 2162	PAPER NUMBER

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/783,284

Applicant(s)

SCHWESIG ET AL.

Examiner

Chongshan Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to communications filed on May 31, 2005. Claims 1-28 are pending in this Office Action.

#### ***Claim Objections***

2. Examiner suggests applicant to change the preamble of claim 1 to “A computer implemented method ...” in order to avoid 101 rejection.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 6-7, 14-15, 20-21 and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak (Pub. No.: US 2002/0104099 A1) in view of Ellis et al. (hereinafter “Ellis”, US 6,774,926 B1).

As per claim 1, Novak discloses a method of publishing media data, comprising:  
accessing a media interface of a media device (Novak, page 6, [0061]-[0062]);  
capturing media data using a media capture component of said media device (Novak, page 3, [0039], “web camera video clips”, a web camera is a media capture device);  
storing said captured media data in a media file in storage of said media device (Novak, page 3, [0039]);

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publishing said media data to a network server (Novak, page 2, [0025]-[0026]);

wherein said capturing, and publishing are performed using said media interface (Novak, page 6, [0061]-[0062]).

Novak does not explicitly disclose modifying said captured media data, publishing said modified media data to a network server; wherein said capturing, modifying, and publishing are performed using said media interface. Ellis teaches modifying said captured media data (Ellis, Fig. 15, element 216 & 218, col. 12, lines 19-25), publishing said modified media data to a network server (Ellis, Fig. 7 & 15, element 222, 224 & 226, col. 12, lines 19-25, col.7, line 27 – col. 8, line 36); wherein said capturing, modifying, and publishing are performed using said media interface (Ellis, col. 5, line 23 – col. 7, line 27. According to Microsoft Computer Dictionary, an interface is a software that enables a program to work with the user, with another program such as the operating system, or with the computer's hardware. Ellis teaches user equipment, such as computer, cell phone, etc, is used to capture, store, modify the media data and upload the media data to a server. The user equipment inherently includes an interface to perform all the operations because without the interface, the user equipment is unable to interact with user to receive instructions and unable to store the data into storage, edit the data and upload the data to a server). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the media publishing system of Novak by incorporating a media editing component as disclosed by Ellis (Ellis, Fig. 7 & 15, element 216 & 218, col. 12, lines 19-25, col.7, line 27 – col. 8, line 36). The motivation being to allow a user to edit the captured raw multimedia data into better image/sound/resolution. This provides the viewer with better experience when viewing the multimedia.

As per claim 2, Novak and Ellis teach all the claimed subject matters as discussed in claim 1, and further teach said capturing, modifying, and publishing are performed using an instant publish command of said media interface (Novak, page 6, [0061]-[0062], Ellis, col. 5, line 23 – col. 7, line 27).

As per claim 6, Novak and Ellis teach all the claimed subject matters as discussed in claim 1, and further teach said modifying includes editing said captured media data using one or more editing commands within said media interface (Ellis, Fig. 15, element 216 & 218, col. 12, lines 19-25).

As per claim 7, Novak and Ellis teach all the claimed subject matters as discussed in claim 6, and further teach said editing includes changing an image represented by said media data (Ellis, Fig. 15, element 216 & 218, col. 12, lines 19-25).

Claims 14-15 are rejected on grounds corresponding to the reasons given above for claims 1-2.

As per claim 20, Novak and Ellis teach all the claimed subject matters as discussed in claim 14, and further teach a remote command interface for receiving and processing remote commands (Novak, page 3, [0032]).

As per claim 21, Novak and Ellis teach all the claimed subject matters as discussed in claim 20, and further teach said remote command interface provides a remote instant publish command (Novak, page 3, [0032]).

As per claim 23, Novak and Ellis teach all the claimed subject matters as discussed in claim 14, and further teach one of said one or more editing commands provides for modifying an

image represented by media data captured by said media capture component (Ellis, Fig. 15, element 216 & 218, col. 12, lines 19-25).

As per claim 24, Novak and Ellis teach all the claimed subject matters as discussed in claim 14, and further teach said media device is a mobile telephone (Ellis, col. 3, lines 58-61).

Claims 25-28 are rejected on grounds corresponding to the reasons given above for claims 1-2.

5. Claims 3-5, 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak (Pub. No.: US 2002/0104099 A1) in view of Ellis et al. (hereinafter "Ellis", US 6,774,926 B1) and Pineau (Pub. No.: US 2003/0184793 A1).

As per claim 3, Novak and Ellis teach all the claimed subject matters as discussed in claim 2, except for explicitly disclosing said instant publish command is accessed through a single operation of said media device. Pineau teaches said instant publish command is accessed through a single operation of said media device (Pineau, page 3, [0031]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Novak and Ellis' combined media publishing system by using a single publish command as disclosed by Pineau (Pineau, page 3, [0031]). The motivation being to provide an easy operation for the user for publishing the media by using a single publish command.

As per claim 4, Novak, Ellis and Pineau teach all the claimed subject matters as discussed in claim 3, and further teach said single operation is pushing one button on said mobile device (Pineau, page 3, [0031]).

As per claim 5, Novak, Ellis and Pineau teach all the claimed subject matters as discussed in claim 3, and further teach said single operation is pushing one button on said mobile device (Pineau, page 3, [0031]).

Claims 16-17 are rejected on grounds corresponding to the reasons given above for claims 3-5.

As per claim 18, Novak, Ellis and Pineau teach all the claimed subject matters as discussed in claim 15, and further teach said instant publish command causes said media device to capture media data, modify said captured media data, and publish said modified media data (Pineau, page 3, [0031]).

As per claim 19, Novak, Ellis and Pineau teach all the claimed subject matters as discussed in claim 18, and further teach said instant publish command causes said mobile device to modify said captured media device according to configuration settings set through said media interface (Pineau, page 3, [0031]).

6. Claims 8-12 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak (Pub. No.: US 2002/0104099 A1) in view of Ellis et al. (hereinafter "Ellis", US 6,774,926 B1) and Toyama et al. (hereinafter "Toyama", Pub. No.: US 2004/0070678 A1).

As per claim 8, Novak and Ellis teach all the claimed subject matters as discussed in claim 1, except for explicitly disclosing said modifying includes adding metadata to said captured media data. Toyama teaches said modifying includes adding metadata to said captured media data (Toyama, page 3, [0022]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Novak and Ellis' combined media publishing system by adding metadata to said captured media data as disclosed by

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Toyama (Toyama, page 3, [0022]). The motivation being to provide metadata information to identify the media data.

As per claim 9, Novak, Ellis and Toyama teach all the claimed subject matters as discussed in claim 8, and further teach said metadata includes user metadata defined by a user of said media device (Toyama, page 3, [0022]).

As per claim 10, Novak, Ellis and Toyama teach all the claimed subject matters as discussed in claim 9, and further teach said user metadata includes author information (Toyama, page 3, [0022]).

As per claim 11, Novak, Ellis and Toyama teach all the claimed subject matters as discussed in claim 8, and further teach said metadata includes automatic metadata generated by said mobile device (Toyama, page 3, [0022]).

As per claim 12, Novak, Ellis and Toyama teach all the claimed subject matters as discussed in claim 11, and further teach said automatic metadata is generated when said media data is captured (Toyama, page 3, [0022], “creation date and time, location”).

Claim 22 is rejected on grounds corresponding to the reasons given above for claim 8.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Novak (Pub. No.: US 2002/0104099 A1) in view of Ellis et al. (hereinafter “Ellis”, US 6,774,926 B1) in view of Toyama et al. (hereinafter “Toyama”, Pub. No.: US 2004/0070678 A1) and further in view of Fernandez (Pub. No.: US 2004/0260669 A1).

As per claim 13, Novak, Ellis and Toyama teach all the claimed subject matters as discussed in claim 11, except for explicitly disclosing said automatic metadata includes biometric information for the user of said mobile device. Fernandez teaches said automatic



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metadata includes biometric information for the user of said mobile device (Fernandez, page 1, [0018]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Novak, Ellis and Toyama's combined media publishing system by incorporating a biometric information as disclosed by (Fernandez, page 1, [0018]). The motivation being to provide biometric information for the security of the system and data.

### *Response to Arguments*

8. Applicant's arguments filed on May 31, 2005 have been fully considered but they are not persuasive.

9. As per applicant's arguments regarding the references do not teach modifying said captured media data, publishing said modified media data to a network server; wherein said capturing, modifying, and publishing are performed using said media interface have been considered but are not persuasive. Ellis teaches modifying said captured media data (Ellis, Fig. 15, element 216 & 218, col. 12, lines 19-25), publishing said modified media data to a network server (Ellis, Fig. 7 & 15, element 222, 224 & 226, col. 12, lines 19-25, col. 7, line 27 – col. 8, line 36); wherein said capturing, modifying, and publishing are performed using said media interface (Ellis, col. 5, line 23 – col. 7, line 27). According to Microsoft Computer Dictionary, an interface is a software that enables a program to work with the user, with another program such as the operating system, or with the computer's hardware. Ellis teaches user equipment, such as computer, cell phone, etc, is used to capture, store, modify the media data and upload the media data to a server. The user equipment inherently includes an interface to perform all the operations because without the interface, the user equipment is unable to interact with user to

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receive instructions and unable to store the data into storage, edit the data and upload the data to a server. Therefore, the arguments are not persuasive.

### *Conclusion*

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### *Contact Information*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chongshan Chen whose telephone number is (571) 272-4031. The examiner can normally be reached on Monday - Friday (8:00 am - 4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chongshan Chen  
August 10, 2005

  
JEAN M. CORRIELLUS  
PRIMARY EXAMINER